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PTO/SB/21 (6-99)

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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

|                        |                    |
|------------------------|--------------------|
| Application Number     | 10773,951          |
| Filing Date            | February 6, 2004   |
| First Named Inventor   | David Agus         |
| Group/Art Unit         | 1636               |
| Examiner Name          | Schlapkohl, Walter |
| Attorney Docket Number | 39740-0009         |

Total Number of Pages in This Submission

## ENCLOSURES (check all that apply)

|  |   |   |
|--|---|---|
| <input type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Response to Final Office Action<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Version With Markings Showing Changes<br><input type="checkbox"/> Extension of Time Request<br><input checked="" type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/ Incomplete Application<br><input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53<br><input type="checkbox"/> Copy of Notice | <input type="checkbox"/> Copy of an Assignment<br><input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, by Assignee to Exclusion of Inventor Under 37 C.F.R. §3.71 With Revocation of Prior Powers<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Small Entity Statement<br><input type="checkbox"/> Request for Refund | <input type="checkbox"/> After Allowance Communication to Group<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> <b>ADDITIONAL ENCLOSURE(S) (PLEASE IDENTIFY BELOW):</b><br><input checked="" type="checkbox"/> 10 cited references; and Stamped Return Postcard |
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Remarks

**AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT 08-1641 FOR ANY FEES DUE IN CONNECTION WITH THIS PAPER, REFERENCING ATTORNEY'S DOCKET NO. 39740-0009.**

## SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

|                         |   |  |
|-------------------------|---|--|
| Firm or Individual name | HELLER EHRMAN LLP<br>275 Middlefield Road, Menlo Park, California 94025 | LESLIE A. MOOI (Reg. No. 37,047)<br>Telephone: (650) 324-7000<br>Facsimile: (650) 324-0638 |
| Signature               | <i>Leslie Mooi</i>  |  |
| Date                    | August 23, 2006   | Customer Number: 25213   |

## CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated below and addressed to: **MAIL STOP: Amendment, Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on this date: August 23, 2006**

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| Typed or printed name | Kathleen K. Muto        |      |                 |
| Signature             | <i>Kathleen K. Muto</i> | Date | August 23, 2006 |

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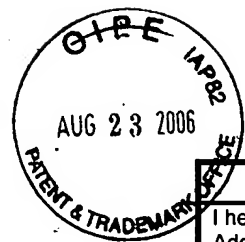
- ☐ This statement qualifies under 37 C.F.R. §1.97, subsection (b) because (check all that apply):
- ☐ (1) It is being filed within 3 months of the application filing date and is other than a continued prosecution application under § 1.53(d)  
-- OR --
- ☐ (2) It is being filed within 3 months of entry of a national stage  
-- OR --
- ☐ (3) It is being filed before the mail date of the first Office Action on the merits  
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- ☐ (4) It is being filed before the mailing of a first Office Action after the filing of a request for continued examination under § 1.114.
- ☒ 37 C.F.R. §1.97(c). If this statement is being filed after the latest of: (1) three months beyond the filing date of a national application; (2) three months beyond the date of entry of the national stage as set forth in §1.491 in an international application; or (3) the mailing date of a first Office action on the merits, but before the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, then:
- ☐ a certification as specified in §1.97(e) is provided below; **or**
- ☒ a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.
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- A. a certification as specified in §1.97(e) is completed below; and
- B. a petition under 37 C.F.R. §1.97(d) requesting consideration of this statement is submitted herewith; **and**
- C. a fee of \$130.00 as set forth in §1.17(i)(1) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.
- ☒ **Fee Authorization.** The Commissioner is hereby authorized to charge the above-referenced fees of **\$180.00** and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 08-1641 (Docket No.: 39740-0009).

Respectfully submitted,

By: Leslie A. Mooi  
Leslie A. Mooi (Reg. No. 37,047)

Dated: August 23, 2006

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| Signature   |                  | Date | August 23, 2006 |

PATENT

Attorney Docket No.: 39740-0009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**PATENT APPLICATION**

|  |   |                              |
|--|---|------------------------------|
| Inventor(s): David Agus                        | ) | Confirmation No. 8470        |
|  | ) |                              |
| Application No.: 10/773,951                    | ) | Art Unit: 1636               |
|  | ) |                              |
| Filed: February 6, 2004                        | ) | Examiner: Schlapkohl, Walter |
|  | ) |                              |
| Title: Gene Expression Markers For Response to | ) |                              |
| EGFR Inhibitor Drugs                           | ) |                              |

**INFORMATION DISCLOSURE STATEMENT**

**UNDER 37 C.F.R. §1.97** 08/28/2006 EHAILE1 00000042 081641 10773951  
01 FC:1006 100.00 DA

Mail Stop: Amendment  
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P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Listed below or on an attached Form PTO-1449 is information known to applicant(s). A copy is provided of each foreign patent, each cited pending unpublished U.S. application, and all additional publications other than U.S. patents and U.S. patent application publications. 37 C.F.R. §§1.97-1.98.

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. If form PTO-1449 is enclosed, the Examiner is requested to initial and return it in accordance with MPEP §609.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56.



SHEET 1 OF 2

INFORMATION DISCLOSURE  
STATEMENT

PTO-1449

ATTY. DOCKET NO.

39740-0009

SERIAL NO.

10/773,951

APPLICANT: David Agus

FILING DATE: 02/06/2004

GROUP: 1636

## U.S. PATENT DOCUMENTS

| EXAMINER'S<br>INITIALS | PUBLICATION NO. | DATE     | NAME              | CLASS | SUBCLASS | FILING<br>DATE |
|------------------------|-----------------|----------|-------------------|-------|----------|----------------|
|                        | 2002/0009736    | 01/24/02 | Wang              | 435   | 6        |                |
|                        | 2003/0073112    | 04/17/03 | Zhang et al.      | 435   | 6        |                |
|                        | 2003/0104499    | 06/05/03 | Pressman et al.   | 435   | 7.23     |                |
|                        | 2003/0165952    | 09/04/03 | Linnarsson et al. | 435   | 6        |                |
|                        | 2003/0180791    | 09/25/03 | Chinnadurai       | 435   | 6        |                |
|                        | 2003/0198970    | 10/23/03 | Roberts           | 435   | 6        |                |
|                        | 2004/0009489    | 01/15/04 | Golub et al.      | 435   | 6        |                |
|                        | 2004/0133352    | 07/08/04 | Bevilacqua et al. | 702   | 19       |                |
|                        |                 |          |                   |       |          |                |
| EXAMINER'S<br>INITIALS | PATENT NO.      | DATE     | NAME              | CLASS | SUBCLASS | FILING<br>DATE |
|                        | 4,699,877       | 10/13/87 | Cline et al.      | 435   | 6        |                |
|                        | 5,015,568       | 05/14/91 | Tsujimoto et al.  | 435   | 5        |                |
|                        | 5,459,251       | 10/17/95 | Tsujimoto et al.  | 536   | 23.5     |                |
|                        | RE 35491        | 04/08/97 | Cline et al.      | 435   | 6        |                |
|                        | 5,858,678       | 01/12/99 | Chinnadurai       | 435   | 7.1      |                |
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|                        | 5,985,553       | 11/16/99 | King et al.       | 435   | 6        |                |
|                        | 6,207,452       | 03/27/01 | Govindaswamy      | 435   | 330      |                |
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|                        | 6,618,679       | 09/09/03 | Loehrlein et al.  | 702   | 20       |                |
|                        |                 |          |                   |       |          |                |
| EXAMINER               |                 |          | DATE CONSIDERED   |       |          |                |

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| <b>INFORMATION DISCLOSURE<br/>STATEMENT</b><br><br><b>PTO-1449</b>               |             |   | ATTY. DOCKET NO.        |                 | SERIAL NO.  |          |                       |  |
|--|-------------|---|-------------------------|-----------------|-------------|----------|-----------------------|--|
|  |             |   | 39740-0009              |                 | 10/773,951  |          |                       |  |
|  |             |   | APPLICANT: David Agus   |                 |             |          |                       |  |
|  |             |   | FILING DATE: 02/06/2004 |                 | GROUP: 1636 |          |                       |  |
| <b>FOREIGN PATENT DOCUMENTS</b>  |             |   |                         |                 |             |          |                       |  |
| Examiner<br>Initials   | Ref.<br>No. | Date  | Document No.            | Name            | Class       | Subclass | Translation<br>YES NO |  |
|  |             | 05/04/88  | EP 0 108 564 B1         | Cline et al.    |             |          | N/A                   |  |
|  |             | 11/26/03  | EP 1 365 034            | Wirtz et al.    |             |          | X                     |  |
|  |             | 04/12/01  | WO 01/25250             | Slamon et al.   |             |          | X                     |  |
|  |             | 01/24/02  | WO 2002/006526          | Slamon et al.   |             |          | X                     |  |
|  |             | 07/03/02  | WO 02/17852             | Warrel et al.   |             |          | X                     |  |
|  |             | 02/13/03  | WO 03/011897            | Singer et al.   |             |          | X                     |  |
|  |             |   |                         |                 |             |          |                       |  |
|  |             |   |                         |                 |             |          |                       |  |
|  |             |   |                         |                 |             |          |                       |  |
|  |             |   |                         |                 |             |          |                       |  |
|  |             |   |                         |                 |             |          |                       |  |
| <b>OTHER DOCUMENTS</b><br>(including author, title, date, pertinent pages, etc.) |             |   |                         |                 |             |          |                       |  |
| Examiner<br>Initials   | Ref.<br>No. | Title   |                         |                 |             |          |                       |  |
|  |             | Brabender, Jan, et al.; <i>Epidermal Growth Factor Receptor and HER2-neu mRNA Expression in Non-Small Cell Lung Cancer Is Correlated with Survival</i> , Clinical Cancer Research; Vol. 7, July 2001; pgs. 1850-1855.           |                         |                 |             |          |                       |  |
|  |             | Ding, Chunming, et al.; <i>A high-throughput gene expression analysis technique using competitive PCR and matrix-assisted laser desorption ionization time-of-flight MS</i> , PNAS, Vol. 100:6; March 18, 2003; pgs. 3059-3064. |                         |                 |             |          |                       |  |
|  |             | Cambridge Healthtech Institute Conference Agenda; "ENABLING MOLECULAR PROFILING WITH CELLULAR RESOLUTION: Microgenomics Using Homogeneous Cell Samples"; Dec. 2002; 5 pgs.  |                         |                 |             |          |                       |  |
|  |             | Yang, Li, et al.; <i>BADGE, BeadsArray for the Detection of Gene Expression, a High-Throughput Diagnostic Bioassay</i> ; Genome Research; Vol. 11; 2001; pgs. 1888-1898.  |                         |                 |             |          |                       |  |
|  |             |   |                         |                 |             |          |                       |  |
|  |             |   |                         |                 |             |          |                       |  |
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